

The Hon. Thomas S. Zilly

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TRACY HARDYAL, FRANK LOPA,

Plaintiffs,

VS.

U.S. BANK NATIONAL ASSOCIATION,  
as Successor Trustee to Bank of America,  
N.A. as Successor to LaSalle Bank, N.A. as  
Trustee for Certificate Holders of Washington  
Mutual Mortgage Pass-Through Certificates  
WMALT Series 2007-3 Trust; unknown DOE  
defendants 1 through 50 claiming an interest  
in subject property.

## Defendants.

Case No.: 2:17-01416 TSZ

PLAINTIFFS' SURREPLY TO  
DEFENDANT'S SUPPLEMENTAL  
BRIEF REGARDING ACCELERATION

NOTED ON MOTION CALENDAR:  
July 6, 2018

## ORAL ARGUMENT REQUESTED

Plaintiffs hereby request the Court to strike and not consider Frank Lopa's bankruptcy documents attached to Defendant's Supplemental Brief in Opposition to Plaintiff's Motion for Summary Judgment (Dkt. #47), and any reference to or argument about the bankruptcy documents in the Supplemental Brief.

Defendant's submission of the bankruptcy documents violates the deadline imposed by LCR 7(d)(3). Any evidence to be submitted by U.S. Bank for its opposition to Plaintiff's Motion for Summary Judgment was required to be filed no later than May 7, 2018, the

PLAINTIFFS' SURREPLY TO DEFENDANT'S  
SUPPLEMENTAL BRIEF REGARDING  
ACCELERATION - 1  
(Case No. 2:17-01416 TSZ)

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1 Monday before the original noting date of May 11, 2018. Timely submission of this  
 2 additional evidence by U.S. Bank would have given Plaintiffs the ability to properly respond  
 3 to it. As it is, the bankruptcy documents contain nothing that indicates that Mr. Lopa believed  
 4 that the acceleration of the debt had been revoked or abandoned. Indeed, the documents show  
 5 that as of the time of the bankruptcy filing, Mr. Lopa believed the debt owed to U.S. Bank's  
 6 loan servicer, Ocwen, was \$935,079 – the full amount of the debt, plus accrued interest. This  
 7 is completely consistent with Mr. Lopa's belief that the 2008 acceleration had never been  
 8 revoked or abandoned.

10 Additionally, Mr. Lopa's bankruptcy documents carry no weight as to what Ms.  
 11 Hardyal believed about acceleration, as Ms. Hardyal was not a party to the bankruptcy.  
 12 Because the documents were not submitted in compliance with LCR 7(d)(3) and are without  
 13 relevance to the issue of acceleration and U.S. Bank's possible revocation of acceleration, the  
 14 Court should not consider them

15 DATED THIS 12th day of July, 2018.

16 BERRY & BECKETT, PLLP

17  
 18 /s/ Guy Beckett  
 19 Guy W. Beckett, WSBA #14939  
 20 Attorneys for Plaintiffs Hardyal  
 21 and Lopa